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UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHWEST COALITION FOR)	
ALTERNATIVES TO PESTICIDES, PACIFIC)	Civ. No. 10-01919-TSZ
COAST FEDERATION OF FISHERMEN'S)	
ASSOCIATIONS, INSTITUTE FOR FISHERIES)	
RESOURCES, and DEFENDERS OF WILDLIFE,)	FEDERAL DEFENDANT'S
)	RESPONSE TO INTERVENOR-
Plaintiffs,)	DEFENDANTS' JOINT MOTION
)	FOR JUDGMENT ON THE
v.)	PLEADINGS
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Federal Defendant,)	
)	
DOW AGROSCIENCES LLC, <i>et al.</i> ,)	
)	
Intervenor-Defendants.)	
)	

FEDERAL DEFENDANT'S RESPONSE TO INTERVENOR-
 DEFENDANTS' JOINT MOTION FOR JUDGMENT ON
 THE PLEADINGS
 (Civ. No. 10-01919-TSZ)

*U.S. Department of Justice
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1 Federal Defendant, the Environmental Protection Agency (“EPA”), submits the following
2 response to Intervenor-Defendants Dow AgroSciences LLC, Croplife America, Washington
3 Friends of Farms and Forests, Oregonians for Food and Shelter, and Responsible Industry for a
4 Sound Environment’s (collectively, “Intervenors”) Motion for Judgment on the Pleadings (Dkt.
5 No. 80) (“Motion”).

6 EPA concurs with Intervenors’ argument concerning Article III standing, and notes that
7 standing is a threshold issue that must be resolved before the Court considers the merits of
8 Plaintiffs’ claim. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992); *see also Steel Co. v.*
9 *Citizens for a Better Environment*, 523 U.S. 83, 102-03 (1998). Here, Plaintiffs have failed to
10 make any allegation concerning their purported interest in any of the particular salmonid
11 Evolutionarily Significant Units (“ESUs”) at issue in the two biological opinions (“BiOps”) at
12 the heart of Plaintiffs’ Amended Complaint. Nor have Plaintiffs alleged the existence of a nexus
13 between their purported interest in those ESUs and harm resulting from the application of any of
14 the six pesticides at issue in the BiOps. The Court should accordingly enter judgment for the
15 Defendant. EPA takes no further position as to Intervenors’ Motion, and reserves all arguments
16 on the merits should this case proceed to the consideration of the parties’ cross-motions for
17 summary judgment.
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19 Dated: August 27, 2012.
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Respectfully submitted,

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/s/ J. Brett Grosko

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record.

/s/ J. Brett Grosko

J. BRETT GROSKO